

June 29, 2010

**VIA ECF AND COURIER**

The Honorable Joseph F. Bianco  
United States District Court  
100 Federal Plaza, P.O. Box 9014  
Central Islip, New York 11722

Re: Relevant Decision By The New York Court of Appeals; *Hoy v. The Incorporated Village of Bayville et al.*, 10-cv-00094 (JFB) (AKT)

Dear Judge Bianco:

Counsel for the undersigned defendants (the “Wireless Defendants”) write to inform the Court of a recent decision by the New York Court of Appeals that is relevant to the Wireless Defendants’ pending motion to dismiss. *See Perrin v. Bayville Village Board*, Mo. No. 2010-524 (N.Y. June 24, 2010) (appended hereto as Attachment A). The motion was filed on May 24, 2010, and the response and reply are currently due by July 9, 2010 and July 23, 2010 respectively.

The Wireless Defendants have argued that this action presents a number of issues identical to those raised and decided by the Nassau County Supreme Court and the Appellate Division, Second Department in *Perrin I* and *Perrin II*. *See* Doc. 37-1 at 1 & n.1 (citing 2008 WL 4124110, 2008 N.Y. Slip Op. 32401(U) (N.Y. Sup. Ct. Aug 10, 2008) (No. 9468-07) (“*Perrin I*”), *modified*, 70 A.D.3d 835, 894 N.Y.S.2d 131 (2d Dep’t 2010) (“*Perrin II*”). At the time the Wireless Defendants submitted the pending motion to dismiss, the *Perrin* petitioners had filed a motion with the N.Y. Court of Appeals seeking leave to appeal, arguing that *Perrin II* was wrongly decided. *See* Doc. 37-1 at 1 n.1 (citing the *Perrin* petitioners’ then-pending motion).

By this letter, the Wireless Defendants are informing the Court that the N.Y. Court of Appeals has denied the *Perrin* petitioners’ motion for leave to appeal. *See* Attachment A.

Respectfully submitted,

/s/ Alfred Amato

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